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10 IN THE UNITED STATES DISTRICT COURT
11 FOR THE SOUTHERN DISTRICT OF CALIFORNIA
12

13 **TROY DOMINIC MABON, JR.,**

14 Plaintiff,

15 v.

16 **DR. SHARON YOUNG; DR. N.
BARRERAS; MTA G. SALIZAR; C.
GRAY, SRN,**

17 Defendants.
18

Case No.: 08cv0258-JLS(CAB)

DEFENDANT DR. BARRERAS'
NOTICE OF MOTION AND MOTION
TO DISMISS (F.R.Civ.P. 12(B))

Date: October 2, 2008

Time: 9:00 a.m.

Ctrm: E

Judge: Honorable Cathy Ann Bencivengo

NO ORAL ARGUMENT REQUIRED

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20 TO PLAINTIFF APPEARING PRO SE:

21 PLEASE TAKE NOTICE that on October 2, 2008, at 9:00 a.m., or as soon thereafter as
22 this matter may be heard in Courtroom E of the above-entitled court located at 940 Front Street in
23 San Diego, CA, the Honorable Cathy Ann Bencivengo, presiding, defendant Doctor Nasaria P.
24 Barreras will move and hereby does so move this court for an order dismissing the Complaint Under
25 the Civil rights Act 42 U.S.C. § 1983 in its entirety as to defendant Barreras pursuant to Federal
26 Rules of Civil Procedure ("F.R.Civ.P.") 12(b) on the grounds that the plaintiff named Dr. Barreras
27 in her official capacity and on that ground, the court lacks jurisdiction. (12(b)(2).) Additionally, on
28 ///

1 the grounds that plaintiff failed to state a claim against the moving defendant upon which relief can
2 be granted. (12(b)(6).)

3 Defendant is seeking an order from the court granting the Motion to Dismiss in its entirety
4 and with prejudice. Should the court grant this motion with prejudice, that will end the case as to
5 Dr. Barreras.

6 This motion will be based on all of the pleadings and papers constituting the file in this
7 action, this Notice of Motion and Motion to Dismiss, the Memorandum of Points and Authorities
8 in support of the motion, any opposition and reply filed, and any oral argument permitted by the
9 court at the time of hearing.

10 Dated: August 26, 2008

11 Respectfully submitted,

12 EDMUND G. BROWN JR.
Attorney General of the State of California

13 KRISTIN G. HOGUE
14 Supervising Deputy Attorney General

15 s/ **William A. Buess**

16 WILLIAM A. BUESS
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17 Attorneys for Defendants N. Barreras, G. Salazar
18 and C.Gray

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DECLARATION OF SERVICE BY U.S. MAIL

Case Name: **MABON v. YOUNG**

No.: **08cv0258-JLS(CAB)**

I declare:

I am employed in the Office of the Attorney General, which is the office of a member of the California State Bar, at which member's direction this service is made. I am 18 years of age or older and not a party to this matter. I am familiar with the business practice at the Office of the Attorney General for collection and processing of correspondence for mailing with the United States Postal Service. In accordance with that practice, correspondence placed in the internal mail collection system at the Office of the Attorney General is deposited with the United States Postal Service that same day in the ordinary course of business.

On August 26, 2008, I served the attached NOTICE OF MOTION AND MOTION TO DISMISS; MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF MOTION TO DISMISS by placing a true copy thereof enclosed in a sealed envelope with postage thereon fully prepaid, in the internal mail collection system at the Office of the Attorney General at 110 West A Street, Suite 1100, P.O. Box 85266, San Diego, CA 92186-5266, addressed as follows:

Troy Dominic Mabon
V70737
Pelican Bay State Prison
P.O. Box 7500
Crescent City, CA 95532
[In Pro Per]

I declare under penalty of perjury under the laws of the State of California the foregoing is true and correct and that this declaration was executed on August 26, 2008, at San Diego, California.

E. Williams

Declarant



Signature